



CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

New Jersey Office of the Attorney General

Division of Consumer Affairs
State Board of Dentistry
124 Halsey Street, 6th Floor, Newark, NJ 07102

Via Certified and Regular Mail



PAULA T. DOW
Attorney General

THOMAS R. CALCAGNI
Acting Director

May 25, 2011

RECEIVED AND FILED
WITH THE
N.J. BOARD OF DENTISTRY
ON 6-13-11 SA

Mailing Address:
P.O. Box 45005
Newark, NJ 07101
(973) 504-6405

Andriy A. Makaruha
207 Brookwood Gardens
East Windsor, NJ 08520

**RE: OFFER OF SETTLEMENT IN LIEU OF
FORMAL ACTION – File #75330
In the Matter of the Unlicensed Practice of
Andriy A. Makaruha**

Dear Mr. Makaruha:

The New Jersey State Board of Dentistry ("Board") received notice that you were arrested on February 14, 2011 by the East Windsor Township Police Department for the unlawful practice of dentistry (N.J.S.A. 2C:21-30), possession of prescription CDS (Articaine) without a valid prescription (N.J.S.A. 2C:35-10a), and possession of hypodermic syringes (N.J.S.A. 2C:36-6). Upon review of all available information, the Board has determined that you have performed dentistry without licensure and therefore probable cause exists to support a finding that you have practiced dentistry pursuant to N.J.S.A. 45:6-19.

Prior to commencing formal action, the Board is offering you an opportunity to settle this matter. Please review the terms contained in this letter and if you agree, sign the attached "Acknowledgment and Agreement" and return it to the Board. This letter and the signed Acknowledgment and Agreement will be considered the equivalent of an order of the Board and will be public information. Once signed, failure to comply with the terms of this agreement will result in further action and additional sanctions.

By resolving this matter through signing the Acknowledgment and Agreement, you will:

1. Admit that you engaged in the unlicensed practice of dentistry in New Jersey and agree to immediately cease and desist from practicing dentistry or otherwise holding yourself out as a dentist in this State. This includes offering or performing any services defined as the practice of dentistry in the Dental Practice Act, specifically, N.J.S.A. 45:6-19, unless and until you hold a valid and active license issued by the Board.

2. Agree to the assessment of a civil penalty of \$10,000. You will begin to pay \$10,000 with one payment of \$1,000, and eight monthly payments of \$500 thereafter. The Board will stay the collection of the remaining \$5,000 of the penalty for a period of five (5) years. If during that five year period, you are found to have engaged in the unlicensed practice of dentistry, the total amount of

the remaining \$5,000 penalty will be due immediately. If, at the end of the five year period, you have not violated this agreement or any law or regulation administered by the Board, the remaining \$5,000 civil penalty assessed by this agreement will be vacated. You acknowledge and understand the Board will pursue additional sanctions, including enhanced penalties, costs, attorney's fees, and contempt based on any new violation.

3. Agree that should you make an application for licensure, you will appear before the Board to discuss your activities prior to licensure, including the actions leading to your arrest. You further agree and understand that should your application for a license be granted, the Board specifically reserves the right to impose restrictions on your practice as may be necessary to ensure the public health, safety, and welfare.

If you agree to these terms, sign the Acknowledgment and Agreement and return it to Jonathan Eisenmenger, Executive Director, New Jersey State Board of Dentistry, P.O. Box 45005, 124 Halsey Street, Newark, New Jersey 07101. Once filed, a copy will be forwarded to you. You may wish to consult with counsel regarding this offer of settlement.

This settlement offer will remain open to you for (15) days from the date of this letter. In the event that no response is received from you on or before May 27, 2011, the Board will deem its offer rejected and the offer will be withdrawn.

As stated above, should the Board file a civil or administrative action, it will seek penalties in excess of those offered in settlement and may seek an order requiring you to reimburse certain monies and/or requiring you to pay costs and attorney's fees.

Should you have any questions concerning this letter or the settlement offer, please do not hesitate to contact me at (973) 648-2500.

Sincerely,

New Jersey State Board of Dentistry



Jonathan Eisenmenger
Executive Director

cc: Nancy Costello Miller, DAG

ACKNOWLEDGMENT AND AGREEMENT

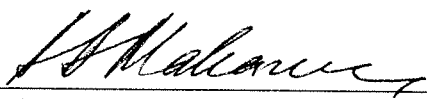
I, **Andriy A. Makaruha**, admit that I engaged in the practice of dentistry in New Jersey without having obtained a license to practice in this State as detailed in the letter of May 25, 2011.

I agree to cease and desist from engaging in the practice of dentistry or providing dental services unless and until I hold a valid and active license issued by the Board.

I agree to the assessment of a civil penalty of \$10,000.00 against me. Payment of this penalty will be made by check or money order made payable to the State of New Jersey, and sent to the Board office with this Acknowledgment and Agreement. I will begin to pay the penalty with one payment of \$1,000, and eight monthly payments of \$500. The Board will stay the collection of the remaining \$5,000 of the penalty for a period of five (5) years. If during that five year period, I am found to have engaged in the unlicensed practice of dentistry, the total amount of the remaining \$5,000 penalty will be due immediately. If, at the end of the five year period, I have not violated this agreement or any law or regulation administered by the Board, the remaining \$5,000 civil penalty assessed by this agreement will be vacated.

I agree that if I engage in the practice of dentistry without a license to practice dentistry, I will be subject to additional sanctions, including injunctive relief, second offense penalties consistent with N.J.S.A. 45:1-25, attorney's fees, and costs.

I am aware that by signing this acknowledgment and agreement, I am certifying that I have read and understand the settlement proposal offered in the letter from the New Jersey State Board of Dentistry dated May 25, 2011. I understand that by signing this document, I am waiving any rights I may have to defend myself against the charges of wrongdoing. I am also aware that the action taken against me by the Board is a matter of public record, and that the letter and the Acknowledgment and Agreement are public documents.



Andriy A. Makaruha

6/13/11

Date

Please allow me to pay the first payment
of \$1,000 by 8-15-11. *AAM.*